

REMARKS

This paper is filed in response to the final Office Action mailed on June 17, 2010. Claims 1, 7, 10, 16, and 26 are currently amended. Claim 27 is currently cancelled, and claims 1-5, 7-19, 23, 24, 26, and 28-32 are currently pending.

In light of the following remarks, the applicant requests withdrawal of the pending rejections and advancement of this application to allowance.

Interview Summary

Examiner Koppikar and the undersigned attorney had a telephone interview on December 16, 2010. The scope of the pending claims and teachings of the cited references were discussed during the interview. Both the applicant and the undersigned attorney thank Examiner Koppikar for his courtesy and time.

Preliminary Matters

Claims 1, 7, 10, 16, and 26 are amended to clarify that the individualized, patient specific data for controlling operation of the pump are parameters. This amendment only clarifies the claim and does not narrow the scope of the claims. The amendments are supported throughout the pending patent application, including at least the text from page 4, line 21 - page 5, line 2, page 19, lines 22-23; and page 27, line 22 - page 28, line 2.

Additionally, the Office Action does not contain a rejection of claims 23 or 24. The applicant respectfully requests allowance of these claims.

Rejection under 35 U.S.C. § 101

Claims 1-6, 16-19, and 32 stand rejected as being directed to non-statutory subject matter. The applicant respectfully traverses this rejection and does not concede any characterizations of the pending application provided in the Office Action. Claim 6 has been cancelled and the rejection of this claim is now moot.

With respect to the remaining claims, the basis for the rejection is that the claims do not positively recite a device because the recited term "database" could read on a sheet of paper. The applicant notes that claim 1 was previously amended to recite "a database stored in a computer." Accordingly, the database recited in the claims cannot read on a sheet of paper.

Additionally, claims 1-5, 16-19, and 32 recite a pump. Claims 1-5 and 32 further recite the act of controlling operation of the pump.

For at least these reasons, the applicant respectfully submits the pending claims recite statutory subject matter and request withdrawal of the pending rejection.

Rejection of Claim 6 under 35 U.S.C. § 112

Claim 6 stands rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter the applicant regards as the invention. The applicant respectfully traverses this rejection and do not concede any characterization of the pending claim provided in the Office Action. The applicant notes claim 6 was previously rejected and requests withdrawal of the pending rejection.

Rejections under 35 U.S.C. § 103

Claims 1-3, 6-19, and 26-32 stand rejected as being obvious over Peterson (US 5,788,669) in view of Eggers (US 5,713,856) and in view of Official Notice and in even further view of Blomquist (US 5,658,250). Claims 4 and 5 stand rejected as being obvious over Peterson in view of Eggers in view of Blomquist in view of Official Notice as applied to claim 3 above, and in further view of Medisource. The applicant respectfully traverses these rejections and does not concede any characterizations of the pending application or cited references provided in the Office Action.

As a preliminary matter, the applicant notes that claims 6 and 27 are cancelled and the rejection of these claims is now moot.

The independent claims were amended so that all of the pending claims now recite batch downloading data items including "individualized, patient-specific parameters for controlling operation of a medical pump." The claims further recite that "at least one of the individualized, patient-specific parameters being selected from the group consisting of an age, a weight, a delivery schedule, a delivery rate, dose requirements, limit for the size of boluses, limit for the frequency of boluses, a dose, a bolus amount, a minimum time between boluses, a volume limit for delivery, and a bolus frequency."

None of the cited references disclose or suggest any of these elements. For example, Peterson discloses downloading an application program from a computer to a pump. Col. 4, ll.

7-17. It also discloses the computer can store a trace table that includes personal and medical information. Col. 4, ll. 36-53. Although its claims may not be so limited, the specification in Peterson does not disclose that any of this information is individualized, patient-specific parameters for controlling operation of a medical pump. Nor does Peterson disclose that any of this personal or medical information is downloaded to the pump.

Eggers discloses downloading drug libraries and profiles to a patient care system. Col. 10, l. 38- col. 11, l. 45. However, it is silent about downloading individualized, patient-specific parameters for controlling operation of a medical pump. In fact, when Eggers does disclose entering such patient-specific parameters, it teaches the parameters are entered directly into the pump using a hardkeys (e.g., 156), softkeys (e.g., 106), and display 102. Col. 14, ll. 17-38.

Blomquist discloses downloading and storing pump programs into flash memory on the pump. It discloses that keyboards on a computer can be used to enter data into the pump using a standard keyboard instead of the limited interfaces found on a pump. However, the only memory locations for storing patient specific setting that Blomquist discloses is either the memory 140 or 150 on the pump itself. IT does not disclose that any patient-specific settings are stored on memory in the computer as would be needed for batch downloading of this information. Col. 7, l. 63-col. 8, l. 11. Additionally, Blomquist discloses that when entering patient specific parameters, the computer uses prompts as opposed to a prompt, table, or similar user interface. Col. 10, ll. 12-17. Although its claims may not be so limited, the disclosure in Blomquist of multiple prompts combined with the explicit teaching that patient specific parameters are stored in memory on the pump suggests that patient specific parameters are individually entered into the pump—not batch downloaded into the pump.

Furthermore, and as stated in the previous response, the Official Notice does not relate to individualized, patient-specific parameters for controlling operation of a medical pump. Medisource discloses a database of drug interactions and dosing algorithms to ensure a valid drug treatment is being administered. It makes no disclosure of downloading any type of data to a pump.

Therefore, no combination of the cited references can result in the claimed combination of references. For at least the foregoing reasons, the applicant respectfully submits claims 1-5, 7-19, and 26-32 are not obvious over the cited references. Therefore, the applicant respectfully requests withdrawal of the pending rejections.

DEC 17 2010

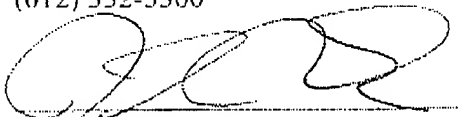
Conclusion

In view of the foregoing remarks, the applicant respectfully requests withdrawal of the pending rejection and advancement of this application to issuance. The applicant also notes that there may be additional reasons that the claimed invention is patentably distinct from the cited references in addition to those raised in the above remarks. Furthermore, any cancellation or amendment of the claims during prosecution of this patent application is made without prejudice. The applicant reserves the right to raise any arguments in support of patentability and the right to prosecute any cancelled subject matter, whether such subject matter was cancelled through cancellation or amendment of a claim.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact the undersigned attorney at (612) 336-4608.

Respectfully submitted,

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Dated: December 17, 2010
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